

**FILED**

SEP 17 2010

SUSAN M SPRAUL, CLERK  
U.S. BKCY. APP. PANEL  
OF THE NINTH CIRCUIT**UNITED STATES BANKRUPTCY APPELLATE PANEL  
OF THE NINTH CIRCUIT**

In re:	)	BAP No.	NC-10-1186
	)		
RENE MCINTYRE,	)	Bk. No.	10-10974
	)		
	)	District Court No.	10-80141
Debtor.	)		
_____	)		
RENE MCINTYRE,	)		
	)		
Appellant,	)		
	)		
v.	)	<b>ORDER RE PROSECUTION OF APPEAL</b>	
	)	<b>(Response Required)</b>	
	)		
	)		
DEUTSCHE BANK NATIONAL TRUST	)		
COMPANY,	)		
	)		
Appellee.	)		
_____	)		

Before: JURY and HOLLOWELL, Bankruptcy Judges.

On June 15, 2010, the BAP entered an order transferring appellant's IFP motion to district court. On June 29, 2010, the district court denied appellant's motion without prejudice to the submission of a complete affidavit regarding monthly expenses.

On August 10, 2010, the BAP issued an order requiring appellant to resolve the IFP issue and file the briefs and

excerpts no later than September 9, 2010. The August 10, 2010, order warned, "[n]o further extensions of time will be granted to appellant with respect to the fee issue or the filing of the opening brief and excerpts of the record absent extraordinary circumstances. Failure to comply with the requirements of this order may result in dismissal of this appeal for lack of prosecution without further notice to the parties."

The BAP received appellant's opening brief and excerpts on September 13, 2010.

Appellant filed an application to proceed IFP with the BAP on September 7, 2010. Appellant filed a further response regarding his IFP application on September 13, 2010. The September 13, 2010 response is a copy of a September 3, 2010 order from the bankruptcy court denying appellant's renewed request to proceed in forma pauperis. The September 7, 2010 application and the September 13, 2010 response both include an affidavit regarding appellant's monthly expenses, which could be considered by the district court in reviewing appellant's IFP request.

IT IS ORDERED THAT the September 7, 2010 application and the September 13, 2010 response will be forwarded to the district court for its consideration.

IT IS FURTHER ORDERED THAT appellant must file a response

regarding the status of his renewed IFP request no later than Friday, October 8, 2010.

Failure to comply with the requirements of this order will result in dismissal of this appeal for lack of prosecution without further notice to the parties. 9th Cir. BAP R. 8070-1.

RENE MC INTYRE  
16720 SHUMAKER LANE  
CLEARLAKE, CALIFORNIA 95422  
707-994-8740

RECEIVED  
Susan M. Spraul, Clerk  
U.S. BKCY. APP. PANEL  
OF THE NINTH CIRCUIT

SEP 07 2010

FILED \_\_\_\_\_  
DOCKETED 9/7/10 FB  
DATE INITIAL

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DEBTOR: RENE MC INTYRE

NOS NC-10-1186

BK10-10974

APPLICATION FOR ORDER TO  
PROCEED IN FORMA PAUPERIS WITH  
AFFIDAVIT REGARDING MONTHLY EXPENSES

VS.

DEUTSCHE BANK NATIONAL TRUST  
COMPANY.

-----/

To the above name court. PLEASE TAKE NOTICE THAT as soon as the matter can be heard of the above-entitled Court, located at 99 South "E" Street, Santa Rosa, Ca. 95404 Rene Mc Intyre will apply to the Court for the following orders:

1. To allow Debtor Mc Intyre to proceed in the above-mentioned proceeding in forma Pauperis;
2. To direct the clerk to file and issue papers and pleadings, and to prepare any necessary Certified copies thereof, as requested by declarant, without payment of any fees, costs or Charges whatsoever;

3. To direct the clerk to remit any fees, costs, or charges that have necessarily been paid

To pursue this action

4. To waive all transcript fees, in this event since it was requested. The application will be made on the ground that Mr. Mc Intyre is an indigent person without funds and unable to

Secure sufficient for this action. The application will be made on the ground that the

Appellant is an indigent person without funds and unable to secure funds sufficient for this

Action. The application will be based on this notice of application; on the declaration of

Mc Intyre,

The listed case law and the complete affidavit regarding monthly expenses.

#### DECLARATION

1. I, Rene Mc Intyre, declare as follows:

I am the appellant in the above-entitled action.

2. My total income consists of the following: My total full monthly income is

\$ 984.00.

I have no cash on hand at this time to pay for the filing fee, nor do I have monies for attorney.

Nor do I have any savings account. I cannot secure money with which to pay the filling

Fees required for this action. I have three dependents with arrears of over \$10,000.00 for two

Other children. In Douglas v. California, 372 U.S. 353 (1963) Held: Where the merits of the one

And only Appeal an indigent has of right were decided without benefit of counsel in a state

Criminal case, There has been a discrimination between the rich and the poor which violates the

14<sup>th</sup> Amendment Pp. 372 U.S. 353 -358

I declare under penalty of perjury that the foregoing is true and correct and that it was executed

On Wednesday, September 1, 2010, at Santa Rosa, California/

Rene Mc Intyre

RENE MC INTYRE  
16720 SHUMAKER LANE  
CLEARLAKE, CA. 95422  
707-994-8740

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

COMPLETE AFFIDAVIT REGARDING  
MONTHLY EXPENSES

NOS: NC- 10-1186  
NOS: BK10-10974

RENE MC INTYRE,

VS.

DEUTSCHE BANK NATIONAL TRUST  
COMPANY.

-----/

I, Rene Mc Intyre, Say this in my complete Affidavit Regarding My Monthly Expenses

1. \$560.00 Rent
2. \$70.00 PG&E
3. \$85.00 Telephone
4. \$35.00 Auto Insurance
5. \$80.00 Gas
6. 154.00 Food

\_\_\_\_\_  
\$984.00

I declare under penalty of perjury that the foregoing is true and correct and that it was

Executed on Wednesday, Sept 1, 2010, at Santa Rosa, California

*Rene Mc Intyre*  
1

RENE MC INTYRE  
16720 SHUMAKER LANE  
CLEARLAKE, CA. 95422  
707-994-8740

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

RENE MC INTYRE,

APPELLANT.

NOS. NC-1011-86  
BK 10-974

VS

ORDER FOR LEAVE TO PROCEED  
IN FORMA PAUPERIS

DEUTCHE BANK NATIONAL TRUST  
COMPANY,

APPELLEE.

\_\_\_\_\_ /

Upon reading the declaration of the appellant, Mc Intyre, submitted herewith and good cause

Appearing therefore:

IT IS HEREBY ORDERED THAT the clerk of this Court file and issue papers and pleadings  
And prepare necessary certified copies as requested in this proceeding, without prepayment of  
Any fees, costs, or charges whatsoever.

IT IS FURTHER ORDERED THAT the appellant, Mc Intyre shall attempt to recover all costs  
From appellee, and any costs so recovered shall be paid to the clerk.

IT IS FURTHER ORDERED THAT no officer at this court shall require payment by appellant, Mc Intyre of any fee for the filing of any paper, or pleading, or transcript in this action or for The performance of any other act required by him for the successful outcome of this Proceeding, and that any fees, costs, or charges whatsoever that have necessarily been paid to Date to pursue this action shall be remitted.

Dated: \_\_\_\_\_

-----  
JUDGE OF THE BANKRUPTCY COURT

POS-030

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>RENE MCINTYRE</b> <b>16720 SHUMAKER LANE</b> <b>CLEARLAKE, CA 95422</b>  TELEPHONE NO.: <b>707 994-8740</b> FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): <b>IN PROSE</b>		FOR COURT USE ONLY          CASE NUMBER: <b>NC-1011-86</b> <b>BK 10-974</b>
COUNTY OF <b>SONOMA</b> STREET ADDRESS: <b>125 SOUTH Grand Ave</b> MAILING ADDRESS: <b>Pasadena, CA 91105</b> CITY AND ZIP CODE: <b>99 South E Street</b> BRANCH NAME: <b>Santa Rosa, CA 95404</b>		
PETITIONER/PLAINTIFF: <b>Rene MCINTYRE</b>  RESPONDENT/DEFENDANT: <b>Deutsche Bank National Trust Company</b>		
<b>PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL</b>		

(Do not use this Proof of Service to show service of a Summons and Complaint.)

- I am over 18 years of age and not a party to this action. I am a resident of or employed in the county where the mailing took place.
- My residence or business address is: **16720 SHUMAKER LANE, Clearlake, CA 95422**
- On (date): **Sept 1, 2010** I mailed from (city and state): **Clearlake, CALIFORNIA** the following documents (specify): **APPLICATION FOR ORDER TO PROCEED IN FORMA PAUPERIS WITH AFFIDAVIT REGARDING MONTHLY EXPENSES**  
**ORDER FOR LEAVE TO PROCEED IN FORMA PAUPERIS**

☒ The documents are listed in the Attachment to Proof of Service by First-Class Mail—Civil (Documents Served) (form POS-030(D)).

- I served the documents by enclosing them in an envelope and (check one):
  - ☒ **depositing** the sealed envelope with the United States Postal Service with the postage fully prepaid.
  - ☐ **placing** the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

- The envelope was addressed and mailed as follows:

- Name of person served: **① BAP Clerk's office ② U.S. Bankruptcy Court**
- Address of person served: **125 South Grand Ave Northern District**
- ERIC D. HOUSER Pasadena, CA. 91105**
- ③ Deutsche Bank 99 South E Street**
- National Trust Company Santa Rosa, CA. 95404**
- 9970 Research Drive**
- Irvine, Calif 92618**

☐ The name and address of each person to whom I mailed the documents is listed in the Attachment to Proof of Service by First-Class Mail—Civil (Persons Served) (POS-030(P)).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: **Sept. 1, 2010**

**Peter McIntyre**

(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

**Peter McIntyre**

(SIGNATURE OF PERSON COMPLETING THIS FORM)

RECEIVED  
Susan M. Spraul, Clerk  
U.S. BKCY APP PANEL  
OF THE NINTH CIRCUIT

SEP 13 2010

FILED 9/13/10  
DOCKETED 9/14/10 FL  
DATE INITIAL

**FILED**

SEP - 3 2010  
U.S. BANKRUPTCY COURT  
SANTA ROSA, CA

RENE MC INTYRE  
16720 SHUMAKER LANE  
CLEARLAKE, CA. 95422  
707-994-8740

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

RENE MC INTYRE,

APPELLANT.

NOS. NC-1011-86

BK 10-~~974~~ 10-10974

VS

ORDER FOR LEAVE TO PROCEED  
IN FORMA PAUPERIS

DEUTCHE BANK NATIONAL TRUST  
COMPANY,

APPELLEE.

\_\_\_\_\_  
Upon reading the declaration of the appellant, Mc Intyre, submitted herewith and good cause

Appearing therefore:

IT IS HEREBY ORDERED THAT the clerk of this Court file and issue papers and pleadings

And prepare necessary certified copies as requested in this proceeding, without prepayment of

Any fees, costs, or charges whatsoever.

IT IS FURTHER ORDERED THAT the appellant, Mc Intyre shall attempt to recover all costs

From appellee, and any costs so recovered shall be paid to the clerk.

IT IS FURTHER ORDERED THAT no officer at this court shall require payment by appellant, Mc Intyre of any fee for the filing of any paper, or pleading, or transcript in this action or for The performance of any other act required by him for the successful outcome of this Proceeding, and that any fees, costs, or charges whatsoever that have necessarily been paid to Date to pursue this action shall be remitted.

Dated: \_\_\_\_\_

-----  
JUDGE OF THE BANKRUPTCY COURT

*Denied for  
Nasima stated in  
my memo of 7/2/10.  
g*

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re

Case No.: 10-10974

Rene Mc Intyre,

Chapter: 7

Debtor(s). /

CERTIFICATE OF MAILING

The undersigned deputy clerk of the United States Bankruptcy Court for the Northern District of California hereby certifies that a copy of the related document was mailed to all parties listed below as required by the Bankruptcy Code and Rules of Bankruptcy Procedure.

Dated: September 3, 2010

Linda Jerge

Deputy Clerk

Rene Mc Intyre  
16720 Shumaker Lane  
Clearlake, CA 95422

RENE MC INTYRE  
16720 SHUMAKER LANE  
CLEARLAKE, CA. 95422  
707-994-8740

ORIGINAL FILED

SEP - 3 2010

U.S. BANKRUPTCY COURT  
SANTA ROSA, CA

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

RECEIVED  
Susan M. Sorauli, Clerk  
U.S. BKCY APP. PANEL  
OF THE NINTH CIRCUIT

SEP 13 2010

FILED \_\_\_\_\_

DOCKETED \_\_\_\_\_  
DATE INITIAL

COMPLETE AFFIDAVIT REGARDING  
MONTHLY EXPENSES

NOS: NC- 10-1186

NOS: BK10-10974

RENE MC INTYRE,

VS.

DEUTSCHE BANK NATIONAL TRUST  
COMPANY.

-----/

I, Rene Mc Intyre, Say this in my complete Affidavit Regarding My Monthly Expenses

1. \$560.00 Rent
2. \$70.00 PG&E
3. \$85.00 Telephone
4. \$35.00 Auto Insurance
5. \$80.00 Gas
6. 154.00 Food

\_\_\_\_\_  
\$984.00

It shall be the filers responsibility to use PACER or CM/ECF (Lobby Terminal) to compare this paper copy to the official image on the CM/ECF system and bring any discrepancies to the attention of the Court Clerk's Office within 10 business days of filing.

I declare under penalty of perjury that the foregoing is true and correct and that it was

Executed on Wednesday, Sept 1, 2010, at Santa Rosa, California

RENE MC INTYRE  
16720 SHUMAKER LANE  
CLEARLAKE, CA. 95422  
707-994-8740

ORIGINAL FILED

SEP - 3 2010

U.S. BANKRUPTCY COURT  
SANTA ROSA, CA

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

COMPLETE AFFIDAVIT REGARDING  
MONTHLY EXPENSES

NOS: NC- 10-1186  
NOS: BK10-10974

RENE MC INTYRE,  
  
VS.

DEUTSCHE BANK NATIONAL TRUST  
COMPANY.

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I, Rene Mc Intyre, Say this in my complete Affidavit Regarding My Monthly Expenses

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Executed on Wednesday, Sept 1, 2010, at Santa Rosa, California

**FILED**

AUG 10 2010

SUSAN M SPRaul, CLERK  
U.S. BKCY. APP. PANEL  
OF THE NINTH CIRCUIT**UNITED STATES BANKRUPTCY APPELLATE PANEL  
OF THE NINTH CIRCUIT****RECEIVED**  
Susan M. Spraul, Clerk  
U.S. BKCY. APP. PANEL  
OF THE NINTH CIRCUIT**SEP 13 2010**

In re:	)	BAP No.	NC-10-1186
	)		
RENE MCINTYRE,	)	Bk. No.	10-10974
	)		
	)		
Debtor.	)		

FILED	_____
DOCKETED	_____
DATE	INITIAL

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 RENE MCINTYRE,

Appellant,

v.

**ORDER RE PROSECUTION OF APPEAL  
(Response Required)**


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 DEUTSCHE BANK NATIONAL TRUST  
COMPANY,

Appellee.

Before: JURY and HOLLOWELL, Bankruptcy Judges.

On June 15, 2010, the BAP entered an order transferring appellant's IFP motion to district court.

On June 29, 2010, the district court denied appellant's motion without prejudice to the submission of a complete affidavit regarding monthly expenses. A review of the district court's docket does not indicate that appellant has submitted a complete affidavit to the district court as of the date of the

entry of this order. (A copy of the district court's order denying the IFP motion without prejudice is attached as an exhibit to this order.)

On July 20, 2010, the BAP issued a Clerk's Order Re Prosecution of Appeal, indicating that appellant had not resolved the IFP issue or filed an opening brief and excerpts of the record. On July 23, 2010, appellant filed a response requesting a 60-day extension of time. On August 2, 2010, appellant filed a response to the Clerk's Order, requesting an extension of time until August 20, 2010.

Appeals must be prosecuted diligently and expeditiously. See 9th Cir. BAP R. 9010-2. While the BAP routinely grants brief extensions of time to prosecute an appeal, longer extensions require a greater showing. This appeal has been pending since May 2010.

IT IS ORDERED THAT no later than Thursday, September 9, 2010, appellant must file with the BAP and serve on opposing counsel (i) a written response regarding the status of appellant's IFP request at district court and (ii) the opening brief and excerpts of the record.

No further extensions of time will be granted to appellant with respect to the fee issue or the filing of the opening brief and excerpts of the record absent extraordinary circumstances.

Failure to comply with the requirements of this order may result in dismissal of this appeal for lack of prosecution without further notice to the parties. 9th Cir. BAP R. 8070-1.